

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases

Case No. 5:16-cv-10444-JEL-EAS

Hon. Judith E. Levy
Magistrate Judge Elizabeth A. Stafford

**CLASS PLAINTIFFS' RESPONSE TO DEFENDANT LEO A. DALY
COMPANY'S MOTION FOR SUMMARY JUDGMENT**

As in the first Bellwether, Class Plaintiffs should be allowed to proceed to trial against Lockwood, Andrews & Newnam P.C. defendants ("LAN") and its parent, Defendant Leo A. Daly Company ("LAD"), based on LAD's vicarious liability. *In re Flint Water Cases*, 584 F. Supp. 3d 383 (E.D. Mich. 2022). Specifically, the Court found there to be an outstanding issue of fact as to the extent of the control exercised by LAD over its employees, in particular highlighting ambiguities in the governing contractual language. *See id.* at 417–23. LAD does not challenge the appropriateness of this ruling. LAD Br. at 2, ECF No. 2465, PageID.80837 (acknowledging their "[m]otion does not address that theory of vicarious liability.>").

As this is sufficient to allow the Class to proceed to trial against LAD and the Court has previously rejected alternative theories such as LAD's "alter ego," Class

Plaintiffs intend to proceed against LAD based solely on vicarious liability. As such, LAD's motion for summary judgment as to its "alter ego" liability should be denied as moot. *See, e.g., In re Flint Water Cases*, 579 F. Supp. 3d 971, 984 (E.D. Mich. 2022) (denying summary judgment as moot on claims no longer pursued by plaintiffs).

Dated: June 30, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2023, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

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